

Coast Guard Authorization Act of 2008

H.R.2830 [110th]

Division A: Coast Guard Authorization Act of 2008 - Coast Guard Authorization Act of 2008 - Title I: Authorization - (Sec. 101) Authorizes appropriations for FY2008 for the Coast Guard for: (1) Coast Guard operation and maintenance, with a portion to be derived from the Oil Spill Liability Trust Fund for certain purposes under the Oil Pollution Act of 1990 (OPA purposes); (2) acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including related equipment (designating an amount for the Integrated Deepwater System Program and a Fund amount for OPA purposes); (3) Coast Guard research, development, test, and evaluation of technologies, materials, and human factors, with a portion from the Fund for OPA purposes; (4) retired pay, payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents; (5) alteration or removal of bridges over U.S. navigable waters constituting navigation obstructions, and for the Bridge Alteration Program; (6) environmental compliance and restoration at Coast Guard facilities; and (7) the Coast Guard Reserve program, including personnel and training costs, equipment, and services.

(Sec. 102) Authorizes the Coast Guard active duty personnel end-of-year strength and average military training student loads.

(Sec. 103) Transfers to the Secretary of Transportation, notwithstanding any other provision of law, the authorities of the Secretary of Homeland Security to approve the construction, alteration, or operation of a bridge, drawbridge, or causeway over U.S. navigable waters and to require the alteration, repair, or removal of that bridge, drawbridge, or causeway.

Title II: Coast Guard - (Sec. 201)
Authorizes the Secretary of the department in which the Coast Guard is operating (Secretary) to appoint civilian employees of the department in which the Coast Guard is operating as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals.

(Sec. 202) Allows Coast Guard industrial activities to accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense.

(Sec. 203) Requires reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States.

(Sec. 204) Revises requirements regarding the number and distribution of commissioned officers on the active duty promotion list.

(Sec. 205) Removes provisions excluding the Coast Guard from provisions relating to Armed Forces Retirement homes. (Authorizes Coast Guard participation in the Armed Forces Retirement Home system.)

(Sec. 206) Authorizes grants to, or cooperative agreements, contracts, or other agreements with, international maritime organizations to acquire information about merchant vessel inspections, security, safety, classification, and port state or flag state law enforcement or oversight.

(Sec. 207) Allows a Coast Guard member who serves on active duty in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act to retain accumulated leave that otherwise would be forfeited at the end of a fiscal year.

(Sec. 208) Allows Coast Guard members, in their official duties, to carry a firearm and, while at a facility: (1) make an arrest without a warrant for any offense against the United States committed in their presence; and (2) as otherwise provided by law, seize property.

(Sec. 209)

Repeals a provision requiring that the initial appointment of the Director of the Boating Safety Office be in the grade of Captain.

(Sec. 210) Requires that the Coast Guard Vice Commandant have the grade of admiral while serving as Vice Commandant.

Replaces

provisions authorizing the appointment of Atlantic and Pacific area commanders with provisions authorizing appointment of a Deputy Commandant for Mission Support, a Deputy Commandant for National Operations and Policy, a Commander for the Force Readiness Command, and a Commander of Operations Command, all to have the grade of vice admiral while serving in those positions.

Removes provisions allowing the appointment of a Coast Guard Chief of Staff.

(Sec.

211) Establishes the Merchant Mariner Medical Advisory Committee to advise the Secretary regarding medical certification determinations for issuance of merchant mariner credentials, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research.

(Sec.

212) Authorizes the appointment of temporary commissioned officers in: (1) the Regular Coast Guard from among holders of merchant seamen licenses (under current law, from among licensed officers of the U.S. merchant marine); and (2) the Coast Guard Reserve from among Coast Guard Reserve commissioned warrant officers.

(Sec. 213) Modifies requirements regarding selection boards.

(Sec.

214) Directs the Secretary to test and report to specified congressional committees on an integrated laser engagement system for

training Coast Guard members assigned to small vessels in the use of individual weapons and machine guns on those vessels.

(Sec. 215)

Allows firing at or into a vessel that fails to stop on being ordered to do so if the firing vessel or aircraft is on government noncommercial service and is under Coast Guard tactical control and at least one Coast Guard member is assigned and conducting a Coast Guard mission on the vessel or aircraft. (Permits indemnification of Coast Guard personnel so firing if death or injury results.)

Requires

that vessels and aircraft designated by the Secretary (under current law, that Coast Guard vessels and aircraft) be distinguished by an identifying insignia.

(Sec. 216) Requires the Coast Guard

Commandant to appoint a Coast Guard employee as an ombudsman in each Coast Guard district to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard, including examining complaints by a petitioner operating in a port or by Coast Guard personnel.

(Sec. 217) Directs the Secretary to

include in each Coast Guard procurement contract a requirement that the contractor, in accordance with other applicable requirements, award subcontracts to small businesses, including regarding socially and economically disadvantaged individuals, women, service-disabled veterans, HUBZone small businesses, institutions receiving assistance under specified provisions of the Higher Education Act of 1965, and Alaska Native Corporations.

Directs the Secretary to seek to

facilitate award of contracts under the Integrated Deepwater Systems Program to alliances of such small businesses, institutions, and corporations. Requires an annual report to specified congressional committees .

(Sec. 218) Establishes in the Coast Guard an

Assistant Commandant for Port and Waterway Security and requires that position to be a rear admiral or civilian from the Senior Executive

Service (career reserved) selected by the Secretary.

(Sec.

219) Requires, except to the extent that the Secretary determines otherwise, that not less than 10% of the amounts obligated by the Coast Guard for contracts in any fiscal year be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(Sec. 220) Authorizes the Coast Guard

to enforce provisions of shipping law relating to the coastwise trade, including regarding vessels that support the exploration, development, and production of oil, gas, or mineral resources in the Gulf of Mexico. Requires a report to specified congressional committees.

(Sec.

221) Revises requirements regarding the nomination and appointment of Coast Guard cadets, including establishing a competitive system for appointments. Allows some noncompetitive appointments and appointments of individuals from other countries.

Establishes a minority recruiting program for prospective cadets at the Coast Guard Academy.

(Sec.

222) Requires the Coast Guard Academy's superintendent to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy. Requires an annual report for the next five years to specified congressional committees.

(Sec.

223) Allows a Coast Guard vessel with its home port in Guam to be overhauled, repaired, or maintained in a shipyard in Guam.

Title III: Shipping and Navigation - (Sec.

301) Allows, notwithstanding any limitation in specified provisions to the contrary, the rebuilding or replacement of a vessel documented under specified provisions with a fishery endorsement in order to

improve vessel safety and operational efficiencies (including fuel efficiency).

Amends the American Fisheries Act to authorize the North Pacific Council to recommend conservation and management measures for approval by the Secretary of Commerce to ensure that the requirement under this section does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska. Sets forth special rules, including rules pertaining to vessel size limits, certain catcher vessels, fishery endorsement limitations, and replacement vessels in the Gulf of Alaska.

(Sec. 302) Amends the Rivers and Harbors Appropriations Act of 1884 to authorize the levy of nonfederal sales taxes on goods and services provided to or by vessels or watercraft (other than vessels or watercraft primarily engaged in foreign commerce) that operate on U.S. navigable waters.

(Sec. 303)
Amends the Rivers and Harbors Appropriations Act of 1915 to: (1) increase the civil penalty for an owner of a vessel that violates regulations establishing anchorage grounds for safe navigation in U.S. waters; and (2) extend the Coast Guard's authority to establish anchorage grounds for vessels from three nautical miles to 12 nautical miles.

(Sec. 304) Subjects any person who knowingly or intentionally possesses a controlled substance on a vessel subject to the jurisdiction of the United States to a civil penalty.

(Sec. 305) Revises various provisions regarding the measurement of vessels, including changing the definition of "vessel engaged on a foreign voyage" and modifying international tonnage certificate provisions.

(Sec. 306) Requires a report to specified congressional committees on: (1) the efficacy of the Coast's Guard's cold weather survival training in Coast Guard District 17 over the last five years; and (2) plans for such training in FY2008-FY2011. Authorizes appropriations to carry out

such training in that District 17.

(Sec. 307) Amends provisions regarding uninspected commercial fishing industry vessels to revise safety requirements.

Establishes
a Fishing Safety Training Grants Program to provide funding to conduct commercial fishing vessel safety training and for the purchase of safety equipment and training aids for use in those training programs. Authorizes appropriations.

Establishes a Fishing Safety Research
Grant Program to provide funding to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, deicing technology, and severe weather detection.

Applies existing provisions regarding
load lines of vessels to fishing vessels built or having a major conversion completed after January 1, 2008.

Modifies the vessels
to which certain survey and classification requirements apply or, as of specified dates, will apply. Directs the Secretary of the department in which the Coast Guard is operating (Secretary) to prescribe a safety compliance program, developed in cooperation with the commercial fishing industry, as an alternative to such survey and classification requirements. Requires certain fishing, fish processing, and fish tender vessels to comply with that alternative safety program.

(Sec.
308) Modifies record keeping requirements regarding issuances, denials, suspensions, and revocations of licenses, certificates of registry, merchant mariners' documents, and related endorsements.

(Sec.
309) Removes provisions exempting certain vessels engaged in the

offshore mineral and oil industry from specified towing vessel manning requirements.

(Sec. 310) Authorizes the Secretary to establish a liability limit for a deepwater port used only in connection with natural gas transportation.

(Sec. 311) Amends the Oil Pollution Act of 1990 to require a claim to be presented for recovery of removal costs for an incident within three (under current law, six) years after the date of completion of all removal actions for that incident.

(Sec. 312) Requires vessels (except those on a voyage from the United States to Canada) that are subject to inspection under provisions relating to inspection and regulation of vessels to have an official logbook with specified entries.

(Sec. 313) Allows an individual authorized to enforce federal shipping law to remove a vessel's certificate, order the individual in charge of the vessel to return the vessel to a mooring, and direct that individual to take steps necessary for the safety of individuals on board.

(Sec. 314) Prohibits approval of a survival craft unless the craft ensures that no part of an individual is immersed in water. Prohibits allowing a survival craft that does not meet that requirement to remain in service after January 1, 2013.

(Sec. 315) Applies provisions relating to the management of vessels to a passenger or small passenger vessel that is transporting more passengers than a number prescribed by the Secretary based on the number of individuals on the vessel that could be killed or injured in a marine casualty.

(Sec. 316) Prohibits discrimination against a

seaman for various reasons such as that the seaman testified in a maritime safety law enforcement proceeding or cooperated with a safety investigation.

(Sec. 317) Amends the Coast Guard and Maritime Transportation Act of 2004 to extend until September 30, 2011, (or the promulgation of related regulations, whichever is earlier) the authority of the Secretary to regulate incidental discharges of dry bulk cargo into Great Lakes waters. (Current law authorizes the Secretary to regulate such discharges until September 30, 2008, or until the promulgation of related regulations, whichever is earlier.)

(Sec. 318) Requires each new U.S. vessel with a building contract date after enactment of this Act or delivered after August 1, 2010, and with an aggregate capacity of 600 cubic meters or more of oil used as fuel to comply with a specified regulation requiring double hulls.

(Sec. 319) Prohibits a vessel that lacks a registry endorsement for foreign trade (or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef) from engaging in regasifying on navigable waters unless the vessel transported the gas from a foreign port. Prohibits construing that prohibition as: (1) applying to any structure on, in, or under U.S. navigable waters that the Coast Guard regulates as a waterfront facility handling liquefied natural gas under specified provisions; or (2) having any effect on the jurisdiction of the Federal Energy Regulatory Commission (FERC) under specified provisions of the Natural Gas Act.

(Sec. 320) Repeals provisions requiring an applicant for a license or certificate of registry to take an oath before a designated official that the applicant will perform faithfully and honestly, according to the best skill and judgment of the applicant, all the duties required by law.

Repeals provisions requiring an applicant for a merchant mariner's document to take an oath that the applicant will perform faithfully and honestly all the duties required by law and will carry out the lawful orders of superior officers.

(Sec. 321) Allows advance renewals of merchant mariners' documents, merchant seamen's licenses, and certificates of registry.

(Sec. 322) Prohibits the Secretary, if an individual was fingerprinted when the individual applied for a transportation security card under specified provisions, from requiring the fingerprinting of the individual for the issuance or renewal of a license, certificate of registry, or merchant mariner's document.

(Sec. 323) Allows the Secretary to extend for one year a license, certificate of registry, or merchant mariner document to enable the Coast Guard to eliminate a processing backlog.

(Sec. 324) Directs the Secretary to develop an interim clearance process for issuance of a merchant mariner document to enable a newly hired seaman to begin working on an offshore supply vessel or towing vessel if the Secretary makes an initial determination that the seaman does not pose a safety and security risk.

(Sec. 325) Requires the Commandant to report to specified congressional committees on expanding the streamlined evaluation process program previously affiliated with the Houston Regional Examination Center to all Coast Guard processing centers, including proposals to simplify the application process to help eliminate errors in completing the application form.

(Sec. 326) Directs the Secretary of Transportation, through the Administrator of the Maritime Administration, to report to specified congressional committees on methods to address the current and future shortage in the number of merchant mariners, including regarding whether an educational loan program providing loans for the cost of on-the-job training would provide an incentive for workers and help alleviate the shortage.

(Sec. 327) Directs the Secretary of the department in which the Coast Guard is operating (Secretary) to submit to specified congressional committees: (1) a plan to ensure that the process for an application

(by an individual who has, or has applied for, a transportation security card under specified provisions) for a merchant mariner document can be completed entirely by mail; and (2) a report on the redesign of the merchant mariner document.

(Sec. 328) Directs

the Secretary of Homeland Security to report to specified congressional committees: (1) the loss of U.S. shipyard jobs and industrial base expertise as a result of the performance in foreign shipyards of rebuilding, conversion, and double-hull work on U.S.-flag vessels eligible to engage in the coastwise trade; (2) enforcement of the Coast Guard's foreign rebuild determination regulations; and (3) recommendations for improving the transparency in the Coast Guard's foreign rebuild determination process.

(Sec. 329) Directs the

Secretary of the department in which the Coast Guard is operating (Secretary) to designate by regulation the areas of the approaches to and waters of Buzzards Bay, Massachusetts, if any, on which certain vessels are not required to be under the direction and control of a pilot.

Sets forth pilot licensing requirements applicable to any area of Buzzards Bay, Massachusetts, where a single-hull tanker or tank vessel carrying 5,000 or more barrels of oil or other hazardous material is required to be under a pilot's direction and control.

(Sec.

330) Amends provisions relating to vessels and seamen to remove tonnage criteria from the definition of "offshore supply vessel."

Amends the Oceans Act of 1992 to add tonnage criteria to provisions deeming an offshore supply vessel not to be a tank vessel.

Adds tonnage criteria to provisions regulating offshore supply vessel watches.

Specifies the numbers of licensed mates and licensed engineers required on offshore supply vessels.

(Sec.

331) Directs the Secretary to report to specified congressional committees regarding recreational vessel operator training, including Coast Guard Auxiliary and Power Squadron training programs and existing state programs.

(Sec. 332) Requires the Commandant to report to specified congressional committees on exhaust emissions reduction technology on cargo or passenger ships in U.S. waters and ports and federal, state, and local requirements that affect the ability to demonstrate onboard technology for the reduction of contaminated emissions from ships.

(Sec. 333) Authorizes the Secretary to delegate to the American Bureau of Shipping or another classification society the authority to review and approve plans required for issuing a certificate of inspection or certificate of compliance and conduct inspections and examinations. Imposes certain requirements on a delegation to a foreign classification society.

(Sec. 334)

Amends the Ports and Waterways Safety Act to require any pilot on certain vessels to obtain training on, carry, and use a portable electronic navigation device capable of being connected to an Automatic Identification System.

Title IV: Miscellaneous Provisions -

(Sec. 401) Modifies specifications related to the issuance of a certificate of documentation with a coastwise endorsement for the vessel GALLANT LADY.

(Sec. 402) Authorizes the Secretary, notwithstanding specified provisions, to issue a certificate of documentation with a coastwise endorsement for the OCEAN VERITAS.

(Sec.

403) Requires the National Maritime Enhancement Institute for the Great Lakes region (currently, the Secretary) to conduct maritime transportation studies of the Great Lakes region. Increases the specific studies included. Authorizes appropriations.

(Sec. 404)

Directs the Secretary to convey to Nantucket, Massachusetts, the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts, for use for a public purpose, and to enter into a lease authorizing Nantucket to occupy the land on which the buildings are located.

(Sec. 405) Caps the total delayed

payment of wages (at ten times the unpaid wages that are subject to the claim) in a class action suit by seamen on a passenger vessel capable of carrying over 500 passengers on foreign, intercoastal, and coastwise voyages when payment of wages is not made by specified deadlines without sufficient cause. Regulates other aspects of seamen's wages regarding such vessels.

(Sec. 406) Modifies provisions relating to vessel manning requirements for fish tender vessels in the Aleutian trade.

(Sec.

407) Requires the Commandant, on the decommissioning of the Coast Guard Cutter STORIS, to convey the vessel to the USCG Cutter STORIS Museum and Maritime Education Center, LLC, in the state of Alaska, provided certain conditions are met.

(Sec. 408) Removes provisions relating to licenses to salvage on the coast of Florida.

(Sec.

409) Grants the Town of Jupiter Island, Florida, notwithstanding any other law, a right of first refusal for an exchange of specified real property within the jurisdiction of the Town, including any improvements, for other real property of equal or greater value, for specified uses.

(Sec. 410) Authorizes the Commandant, notwithstanding any other law, to convey to Elizabeth City State University in the state of North Carolina an HU-25 Falcon Jet aircraft under the administrative jurisdiction of the Coast Guard if the Commandant makes specified determinations.

(Sec. 411) Requires the Commandant, notwithstanding any other law, on the scheduled decommissioning of any Coast Guard 41-foot patrol boat, to give the government of Haiti a right of first refusal for conveyance of that vessel, subject to conditions, including that Haiti use the boat for the Coast Guard of Haiti and make the vessel available to the U.S. government if needed in time of war or national emergency.

(Sec. 412) Allows, through the end of 2012 (currently, the end of 2011), chartering of a foreign flag vessel to set, relocate, or recover mooring equipment of a mobile offshore drilling unit located over the Outer Continental Shelf if the Secretary of Transportation makes certain determinations.

(Sec. 413) Requires the Commandant, through the appropriate Area Committee under specified provisions of the Federal Water Pollution Control Act, to prepare a vessel traffic risk assessment for Cook Inlet, Alaska, and for the Aleutian Islands, Alaska, within two years after the date of enactment of this Act.

(Sec. 414) Authorizes the Secretary of the department in which the Coast Guard is operating (Secretary) to issue a certificate of documentation with a coastwise endorsement for the vessel MARYLAND INDEPENDENCE if certain conditions are met.

(Sec. 415) Requires the Commandant to study an area commonly identified as Coast Guard Sector Buffalo, located in Buffalo, New York, and report to specified congressional committees on the most cost-effective method for providing shore facilities and the feasibility of consolidating and relocating shore facilities on a portion of the existing site while meeting and expanding Sector Buffalo operational requirements. Requires that the report contain a preliminary plan for the design, engineering, and construction of the proposed project.

(Sec. 416) Authorizes the Commandant, notwithstanding the Federal Property and Administrative Services Act of 1949, to convey to the Sheriff's Departments of Coahoma, Warren, and Washington Counties, Mississippi, Coast Guard trailerable boats and any equipment or parts from other Coast Guard vessels that the Commandant determines are excess to the needs of the Coast Guard and the Department of Homeland Security.

(Sec. 419)
Authorizes the Secretary of Homeland Security to station additional Coast Guard assets in the United States Virgin Islands for port security and other associated purposes. Authorizes appropriations.

(Sec. 420) Authorizes the Commandant of the Coast Guard to transfer to Presque Isle Township in Presque County, Michigan: (1) possession of the historic Fresnel Lens from the Presque Isle Light Station Lighthouse; and (2) any additional U.S. personal property related to the lens that the Commandant considers appropriate for conveyance.

Requires
the Township, as condition of the transfer of possession, to install the lens in the Lighthouse as a Class I private aid to navigation.

Instructs
the Commandant, upon certification of the Commandant that the Township has installed the lens and is able to operate the lens and Lighthouse as a private aid to navigation, to convey to the Township all interest of the United States in and to the lens.

Allows the Commandant,
if the Commandant conveys the lens to the Township, to convey to the Township any personal property previously transferred to the Township under this Act.

(Sec. 421) Declares that a fishery endorsement is not required for a U.S.-documented purse seine tuna fishing vessel home ported in American Samoa while fishing exclusively for highly migratory species under a license issued pursuant to a specified treaty

between certain Pacific island states and the United States in the treaty area or in any portion of the U.S. exclusive economic zone (EEZ) bordering the treaty area.

(Sec. 422) Directs the Secretary of the department in which the Coast Guard is operating (Secretary) to report to specified congressional committees on the need for additional Coast Guard prevention and response capability in the high latitude regions, including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce.

(Sec. 423) Directs the Secretary to study, through the National Academy of Sciences (NAS), the need for regional response vessel and salvage capability for the state of Washington Olympic Peninsula coast.

(Sec. 424) Directs the Secretary to report to specified congressional committees regarding the projected workload for this and the next five calendar years at the Coast Guard Yard in Curtis Bay, Maryland, and the total full-time equivalents to be supported by the account (popularly known as the Yard Fund) in each such year to meet that workload.

(Sec. 425) Directs the Secretary of Transportation to report to specified congressional committees regarding the proposed construction or alteration of any bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater that may impede or obstruct future navigation to or from port facilities.

(Sec. 426) Prohibits the employer of a seaman from withholding state or local taxes, except by voluntary agreement, if the seaman performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on navigable waters in two or more states (currently, the navigable waters of more than one state).

(Sec. 427) Requires the Commandant, notwithstanding any other law and after the government of Haiti has exercised all of their options under this Act, on the scheduled decommissioning of any Coast Guard 41-foot patrol

boat, to give the government of Bermuda a right of first refusal for conveyance of that vessel, subject to conditions, including that Bermuda use the boat for the Coast Guard of Bermuda and make the vessel available to the U.S. government if needed in time of war or national emergency.

(Sec. 428) Amends the Longshore and Harbor Workers' Compensation Act to modify the definition of "employee" to make it applicable to individuals who are employed to manufacture any recreational vessel under 165 feet in length or are employed to repair any recreational vessel, or to dismantle any part of any recreational vessel in connection with repair of the vessel.

(Sec. 429)
Authorizes the Commandant, notwithstanding the Federal Property and Administrative Services Act of 1949, to convey to the Police Department of Nassau County, New York, two Coast Guard 41-foot patrol boats.

(Sec. 430) Requires the administrator of the Environmental Protection Agency (EPA) to report to specified congressional committees on the public health, safety, and environmental concerns related to the underground petroleum spill on the Brooklyn shoreline of Newtown Creek, New York City, New York, in Greenpoint, Brooklyn, New York. Authorizes appropriations.

(Sec. 431) Authorizes the Commandant to convey real property commonly identified as Coast Guard Station Marquette and Lighthouse Point to the city of Marquette, Michigan.

Title V: Ballast Water Treatment - Ballast Water Treatment Act of 2008 - (Sec. 503) Amends the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to replace provisions relating to preventing the introduction and spread of aquatic nuisance species in the Great Lakes through the exchange of ballast water with provisions relating to the introduction and spread of such species from ballast water and other ship-borne vectors. (The new provisions are not focused only on the Great Lakes.)

Excludes
from these provisions a vessel that carries all of its permanent ballast water in sealed tanks that are not subject to discharge or a

vessel that continuously takes on and discharges ballast water in a flow-through system.

Excludes vessels of the Armed Forces, but requires the Secretary of the department in which the Coast Guard is operating (Secretary) and the Secretary of Defense to implement a ballast water management program for Armed Forces vessels consistent with these requirements, including deadlines, and at least as stringent as the requirements issued for such vessels under specified provisions of the Federal Water Pollution Control Act.

Prohibits the uptake or discharge of ballast water or sediment in waters subject to the jurisdiction of the United States except as specified in these provisions, subject to exceptions.

Requires vessel operators to conduct all ballast water management operations in accordance with an approved ballast water management plan that meets requirements prescribed by regulation. Requires maintenance of a ballast water record book.

Prohibits the discharge of ballast water in waters subject to U.S. jurisdiction except after conducting ballast water exchange, using a treatment technology meeting certain requirements, or using environmentally-sound alternative ballast water treatment technology. Allows exceptions, including for safety or stability. Allows waiver for a substantial business hardship. Sets forth exchange and treatment requirements. Sets treatment system implementation deadlines. Authorizes appropriations for the promulgation and implementation of standards.

Requires notice to vessel owners and operators of any area in waters subject to the U.S. jurisdiction in which vessels may not uptake ballast water due to known conditions.

Prohibits the removal or disposition of sediment from spaces designed to carry ballast water except in accordance with specified requirements, including that the removal or disposition be more than 200 nautical miles from land or into a reception facility meeting certain

requirements.

Authorizes the Secretary of the department in which the Coast Guard is operating (Secretary) to inspect vessels and allows states to administer their own inspection and enforcement programs. Requires an annual report on the results of inspection and enforcement activities.

Authorizes the Secretary to detain vessels and provides for civil penalties (including in rem liability), criminal penalties, and revocation of clearance.

Declares that provisions in this title relating to ballast water exchange requirements and treatment requirements supersede any inconsistent state or local law.

Requires a report to specified congressional committees on vessel-borne vectors of aquatic nuisance species and pathogens other than ballast water and sediment, including vessel hulls and equipment and from vessels equipped with ballast tanks that carry no ballast water.

(Sec. 504) Directs the Secretary to conduct specified surveys of the number of living organisms in ballast water and report to specified congressional committees.

(Sec. 505)
Replaces provisions regarding a ballast water management demonstration program with provisions directing the Secretary to establish a Shipboard Technology Evaluation Program to evaluate ballast water treatment technologies aboard vessels. Directs the Under Secretary of Commerce for Oceans and Atmosphere to: (1) conduct a program to demonstrate such ballast water treatment technologies evaluated aboard vessels; (2) establish a grant program to provide funding for acquiring, installing, and operating ballast water treatment technologies aboard vessels participating in the program; and (3) conduct a program to demonstrate and verify technologies and practices to monitor and control the introduction of aquatic invasive species by ship pathways other than the release of ballast water.

(Sec.

506) Directs the President to prepare and publish a national rapid response plan for killing, removing, or minimizing the spread of aquatic nuisance species in the waters of the United States.

(Sec.

507) Authorizes appropriations to carry out specified provisions of this title and to carry out provisions of existing law relating to the national ballast information clearinghouse.

Title VI: Maritime Pollution Prevention - Maritime

Pollution Prevention Act of 2008 - (Sec. 604) Amends the Act to Prevent Pollution from Ships (Act) to provide for the adoption of Annex VI (Prevention of Air Pollution From Ships Enforcement) of the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Convention, which includes any Protocols or Annexes entered into force for the United States). Makes the Act, with respect to Annex VI, applicable to: (1) ships in a port, shipyard, offshore terminal, or U.S. internal waters; (2) a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States and is in navigable U.S. waters, an emission control, or other specified area; (3) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI and is in navigable U.S. waters, an emission control, or other specified area; and (4) to the extent consistent with international law, to any other ship that is in the U.S. exclusive economic zone or an emission control or other specified area. Authorizes, but does not require with respect to Annex VI, federal agency heads to determine that some or all Act requirements apply regarding vessel air emissions for public vessels operated under an agency's authority.

(Sec. 605) Permits only the Administrator

(the Administrator) of the Environmental Protection Agency (EPA), and no other person, to issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a documented U.S. vessel.

(Sec. 606) Gives a certificate issued by

a country that is a party to the MARPOL Protocol of 1978 (MARPOL Protocol, which includes the Convention) the same validity as a certificate issued by the Secretary of the department in which the Coast Guard (the Secretary) is operating (currently) or the

Administrator.

(Sec. 607) Requires the Secretary and the Administrator, after consulting with appropriate federal agencies, jointly to prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy.

Revises

provisions concerning the denial of entry to a seagoing ship required by the Convention or the Antarctic Protocol to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances to permit denial of entry to a ship to a port or terminal required by the MARPOL Protocol, the Act, or prescribed regulations relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or such regulations.

(Sec. 608)

Authorizes the Secretary to inspect a ship to which the Act applies to verify whether the ship is in compliance with Annex VI to the Convention and the Act and permits either the Secretary or the Administrator to undertake enforcement actions if an inspection or any other information indicates that there is a violation.

(Sec.

609) Authorizes the Secretary of State, after consulting with the Secretary (currently) or the Administrator, to act for the United States on Protocol and related amendments.

(Sec. 610) Permits the Administrator (currently, only the Secretary) to assess civil penalties.

Title VII: Port Security - (Sec.

701) Directs the Secretary of Homeland Security to establish a program to help prevent acts of terrorism and other activities that jeopardize maritime homeland security by seeking the cooperation of the commercial and recreational boating industries and the public to improve awareness of activity in the maritime domain and report suspicious or unusual

activity.

(Sec. 702) Requires the Secretary of Homeland Security to report to specified congressional committees and to the Comptroller General on the implementation of the Transportation Worker Identification Credential program (TWIC). Requires an assessment of that report by the Comptroller General.

Requires the Secretary of Homeland Security to report to specified congressional committees and to the Comptroller General after completion of the pilot program (required by existing law) to test the business processes, technology, and operational impacts required to deploy transportation security card readers at secure areas of the marine transportation system. Requires an assessment of that report by the Comptroller General.

(Sec. 703) Requires the Comptroller General to report to specified congressional committees comparing background records checks required under provisions relating to transportation security cards and those conducted by states for similar homeland security purposes.

(Sec. 704) Requires the Inspector General of the Department of Homeland Security to report to specified congressional committees on the establishment of Interagency Operational Centers for Port Security required by specified provisions of the SAFE Port Act.

(Sec. 705) Requires the Secretary of the department in which the Coast Guard is operating (Secretary) to establish at least two maritime security response teams to act as the Coast Guard's rapidly deployable counterterrorism and law enforcement response units that can apply advanced interdiction skills in response to threats of maritime terrorism.

(Sec. 706) Requires the Secretary of Homeland Security to begin to increase the number of detection canine teams certified by the Coast Guard for maritime-related security by at least 10 canine teams annually through fiscal year 2012 and to encourage owners and operators of port facilities, passenger cruise liners,

oceangoing cargo vessels, and other vessels to strengthen security through the use of highly trained detection canine teams. Authorizes appropriations.

(Sec. 707) Authorizes the Secretary of the department in which the Coast Guard is operating (Secretary) to lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility to assist: (1) in bringing the port or facility into (or exceeding) compliance with applicable International Ship and Port Facility Code standards; and (2) the port or facility in meeting (or exceeding) specified standards.

(Sec. 708) Directs the Secretary of Homeland Security, through the Commandant, to conduct, in the maritime environment, a program for the mobile biometric identification (fingerprint and digital photography images) of suspected individuals, including terrorists, to enhance border security and for other purposes.

Requires a report to specified congressional committees regarding the cost of expanding the Coast Guard's biometric identification capabilities for use by the Coast Guard's Deployable Operations Group, cutters, stations, and other deployable maritime teams and any other appropriate Department of Homeland Security maritime vessels and units.

(Sec. 709) Directs the Secretary of Homeland Security to report to specified congressional committees regarding the threat, vulnerability, and consequence of a terrorist attack on gasoline and chemical cargo shipments in port activity areas in the United States.

(Sec. 710) Directs the Secretary of Homeland Security to establish a pilot program to test and deploy preventive radiological or nuclear detection equipment on Coast Guard vessels and other locations. Requires that the pilot program leverage existing federal grant funding.

(Sec. 711) Requires the owner or operator of a cruise ship that embarks or disembarks passengers in a

United States port to notify the Secretary of Homeland Security of any covered security incident that occurs on the cruise ship in the course of the voyage in which a U.S. person is involved, in conjunction with any advance notice of arrival to a United States port required by certain provisions. Defines "covered security incident" to mean any criminal act or omission that results in death, bodily injury, all sexual assaults and missing persons, or poses a significant threat to the cruise ship, any cruise ship passenger, any port facility, or any person in or near the port. Requires maintenance on a Coast Guard Internet site of a numerical accounting of missing persons and alleged crimes. Requires updating at least quarterly, aggregated by cruise line, with each cruise line identified by name. Requires each cruise line to include on its Internet site a link, available to the public, to such Coast Guard Internet site.

(Sec. 712) Modifies requirements regarding port security antiterrorism efforts in ports and facilities in foreign countries and U.S. territories.

(Sec. 713)
Requires the Comptroller General to report to specified congressional committees on the effects that the Transportation Worker Identification Card (TWIC) has on companies that employ seasonal employees.

(Sec. 714) Requires an independent assessment and report to specified congressional committees comparing the safety and security risk associated with vessel-based and facility-based liquefied natural gas regasification processes conducted within three miles from land versus such processes conducted more than three miles from land. Requires a report to specified congressional committees.

(Sec. 715)
Directs the Secretary of Homeland Security to establish procedures providing for an individual who is required to be fingerprinted for purposes of obtaining a transportation security card under specified provisions to be fingerprinted at any facility operated by or under contract with an agency of the Department of Homeland Security that fingerprints the public. Terminates the directive on December 31, 2012.

(Sec. 716) Requires issuance of a biometric transportation security card to an individual issued a license, certificate of registry, or merchant mariners document, and to an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel, if those

individuals are allowed unescorted access to a secure area designated in a vessel security plan, unless an individual poses a security risk. (Current law requires issuance, but makes no reference to unescorted access to a secure area.)

(Sec. 717) Requires the Comptroller

General to report to specified congressional committees regarding methods to conduct a background security investigation of an individual who possesses a biometric identification card that complies with International Labor Convention number 185 that are equivalent to the investigation conducted on individuals applying for a U.S. visa.

(Sec.

718) Specifies the composition of the National Maritime Security Advisory Committee and extends its termination date to September 30, 2010. Declares that the Federal Advisory Committee Act does not apply to Area Maritime Security Advisory committees. Repeals provisions requiring each committee submit to Congress the committee's recommendation regarding whether the committee should be continued beyond the termination date.

(Sec. 719) Requires each facility

security plan approved under specified provisions to provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen's welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.

(Sec. 720) Requires the Coast Guard,

consistent with other provisions of law, to enforce any security zone established by the Coast Guard around a tanker containing liquefied natural gas.

Prohibits any security arrangement approved as part of a facility security plan after enactment of this Act for a liquefied natural gas terminal or to assist in the enforcement of any security zone established by the Coast Guard around a tanker containing liquefied natural gas from being based upon the provision of security by a state or local government unless the state or local government has entered into an arrangement with the terminal operator to provide such services and the Secretary of the department in which the Coast Guard is operating (Secretary) ensures that the waterborne patrols operated as part of that security arrangement by a state or local government have the training, resources, personnel, equipment, and experience necessary to deter to the maximum extent practicable a transportation

security incident.

Prohibits the Secretary from approving a facility security plan for a new liquefied natural gas terminal the construction of which is begun after enactment of this Act unless the Coast Guard has available to the sector in which the terminal is located the resources, including state and local government resources, it needs to carry out the navigation and maritime security risk management measures identified in the waterway suitability report prepared pursuant to the Ports and Waterways Safety Act.

(Sec. 721) Directs the Secretary of Homeland Security, consistent with other provisions of law, to notify the Federal Energy Regulatory Commission (FERC) whether the waterway to a proposed waterside liquefied natural gas facility is suitable for associated marine traffic. Requires FERC to reply by informing the Secretary of Homeland Security of FERC's action under the Natural Gas Act regarding the proposed facility.

(Sec. 722) Authorizes the Secretary of Homeland Security to use a secondary authentication system for individuals applying for transportation security cards when fingerprints are not able to be taken or read to enhance transportation security.

(Sec. 723) Directs the Secretary of the department in which the Coast Guard is operating (Secretary) to report to specified congressional committees on the extent to which state and local law enforcement entities are augmenting Coast Guard resources by enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports and conducting port security patrols.

(Sec. 724) Directs the Secretary of Homeland Security to: (1) prepare an assessment of the enrollment sites for transportation security cards, including the feasibility of keeping those enrollment sites open 24 hours per day, and 7 days per week, the feasibility of keeping those enrollment sites open after September 25, 2008, and customer service quality; and (2) develop timelines and benchmarks for implementing the assessment findings.

Title VIII: Coast Guard Integrated Deepwater Program - Integrated Deepwater Program Reform Act - (Sec. 802) Prohibits the Secretary of the department in which the Coast Guard is operating from using a private sector entity as a lead systems integrator for future Integrated Deepwater Systems Program (Program) procurements. Allows completion of existing delivery and task orders. Allows the Secretary to obtain assistance from federal agencies and, by grant, contract, or cooperative agreement, from private sector entities. Directs the Secretary, subject to exception, to use full and open competition for certain Deepwater Program acquisitions. Imposes other Program requirements, including certain required contract terms, development of a life cycle cost estimate, and assignment of a separate contract officers.

Requires a report to specified congressional committees identifying the technology risks and level of maturity for major technologies used on each class of asset acquisitions under the Program.

Requires a report to specified congressional committees on: (1) each Early Operational Assessment and the plan for addressing each assessment's findings; and (2) how the recommendations of each assessment regarding the first in class of a new cutter class have been addressed before initiation of construction.

(Sec. 803) Requires the Coast Guard commandant to appoint or designate a career reserved employee as Chief Acquisition Officer for the Coast Guard to monitor Coast Guard acquisition activities, increase the use of full and open competition, and ensure the use of detailed performance specifications when performance-based contracting is used. Requires the commandant, subject to appropriations, to establish special rate supplements that provide higher pay levels for employees necessary to carry out the amendment made by this paragraph.

(Sec. 804) Directs the Secretary to cause each cutter, other than a National Security Cutter, acquired after enactment of this Act to be classed by the American Bureau of Shipping. Requires certain other testing and certification to be done by independent third parties. Requires the Secretary to cause the first in class of a major asset acquisition of a cutter or an aircraft to be subjected to an assessment of operational capability conducted by the Secretary of the Navy.

(Sec. 805) Requires

specified reports, including concerning : (1) National Security Cutters; (2) the Program, (3) change orders; (4) technology risks and maturity; (5) cost overruns, (6) a plan for management of acquisitions programs, financial management, engineering and logistics management, and contract management; and (7) any Coast Guard mission performance gap due to the removal of Program assets from service.

(Sec.

807) Authorizes the Secretary to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to provide for the use of the Navy Systems Commands to assist the Coast Guard with the oversight of Coast Guard major acquisition programs.

Title IX: Minority Serving Institutions - (Sec.

901) Requires the Commandant to establish a two part management internship program for students at minority serving institutions (MSI) to intern at Coast Guard headquarters or a Coast Guard regional office, to be known as the "MSI Management Internship Program," to develop a cadre of civilian, career mid-level and senior managers for the Coast Guard. Defines a MSI as a historically Black college or university, a Hispanic-serving institution, a Tribal College or University, a Predominantly Black institution, or a Native American-serving nontribal institution. Requires that the MSI Internship be managed by the Secretary of Homeland Security. Authorizes appropriations.

(Sec.

902) Requires the Commandant to: (1) establish an MSI component of the College Student Pre-Commissioning Initiative, to be known as the "MSI Student Pre-Commissioning Initiative Program," to ensure greater participation by students from MSIs in the Initiative; (2) ensure that MSI Initiative graduates are included in the first enrollment for Officer Candidate School after enactment of this title and each enrollment period thereafter; (3) report to specified congressional committees on the number of students in the College Student Pre-Commissioning Initiative and the number of students in the MSI Student Pre-Commissioning Initiative Program, outreach efforts, and enrollee demographic information; and (4) establish an MSI Aviation Officer Corps Initiative to increase the diversity of the Coast Guard Aviation Officer Corps. Authorizes appropriations.

(Sec. 903)

Requires the Commandant to establish a Coast Guard Laboratory of Excellence-MSI Cooperative Technology Program at three MSIs to focus on Coast Guard priority security areas such as global maritime surveillance, resilience, and recovery. Authorizes the heads of such laboratories to establish partnerships with the private sector, especially small, disadvantaged businesses. Authorizes appropriations.

Title X: Appeals to National Transportation Safety Board - (Sec. 1001) Allows certain individuals whose application for the issuance or renewal of a license or certificate of registry has been denied or whose or merchant mariners' document has been suspended or revoked to appeal that decision to the National Transportation Safety Board (NTSB).

Prohibits
the Coast Guard from conducting any administrative proceeding under specified provisions under any contractual relationship or interagency agreement with the NTSB after October 1, 2009.

(Sec. 1002)
Requires the NTSB to review on appeal the denial, amendment, modification, suspension, or revocation of a license, certificate, document, or register in a proceeding under specified provisions. (Current law requires the NTSB to review on appeal a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under specified provisions.)

Allows the
Secretary of the department in which the Coast Guard is operating (Secretary) to obtain judicial review of an NTSB final order in some circumstances.

(Sec. 1003) Transfers to the NTSB, on October 1, 2008, any pending cases remaining undecided by the Coast Guard Office of Administrative Law Judges. Transfers 80% of all funding appropriated for the Coast Guard's Office of Administrative Law Judges to the NTSB and used for the Safety Board Office of Administrative Law Judges.

(Sec. 1004) Sets forth rulemaking requirements.

(Sec. 1005) Directs the Secretary to: (1) establish a program to recruit qualified individuals from appropriate sources in an effort to achieve a workforce drawn from all segments of society in the Coast Guard's Administrative Law Judge program; and (2) report annually to specified congressional committees on the Coast Guard's compliance activities.

Title XI: Marine Safety - (Sec.

1101) Requires the Commandant to promote maritime safety by taking actions to protect life, property, and the environment based on the priorities of: (1) preventing marine casualties and threats to the environment; (2) minimizing the impacts of marine casualties and environmental threats; and (3) maximizing lives and property saved and environment protected in the event of a marine casualty.

(Sec. 1102) Creates the position of Assistant Commandant for Marine Safety. Requires that the individual in that position be a Rear Admiral or civilian from the Senior Executive Service (career reserved).

Creates
in each Coast Guard sector a Chief of Marine Safety. Requires that each individual in that position be: (1) at least a Commander or civilian at level GS-14; (2) colocated with the officer in command of that sector; and (3) responsible for all individuals who, on behalf of the Coast Guard, inspect or examine vessels, conduct marine casualty investigations, or perform other marine safety responsibilities.

Establishes
a limited duty officer program for marine safety. Limits service in that position to commissioned officers with a grade not above commander and chief warrant officers who have more than four years of marine safety experience. Requires an annual report to specified congressional committees on the efforts to recruit individuals to serve as limited duty officers.

Authorizes the Commandant to establish and operate a one or more Centers for Expertise for Marine Safety to: (1) provide and facilitate education, training, and research in marine safety including vessel inspection and casualty investigation; and (2) develop a repository of marine safety information. Allows the Commandant to enter into an agreement with an institution of higher education to provide for joint operation of a Center and provide necessary administrative services.

Requires the Commandant, by policy, to establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard regarding marine safety, including to provide training to an officer, member, or employee. Requires an annual report to specified congressional committees.

Requires that an inspection certificate be signed by the inspector.

(Sec. 1103) Directs the Secretary to develop a long-term strategy for improving vessel safety and the safety of individuals on vessels, including annual issuance of a plan and schedule for: (1) reducing the number and rates of marine casualties; (2) improving the consistency and effectiveness of vessel and operator enforcement and compliance programs; identifying and targeting enforcement efforts at high-risk vessels and operators; and (3) improving research efforts to enhance and promote vessel and operator safety and performance. Requires an annual report to specified congressional committees.

(Sec. 1104) Requires the Assistant Commandant for Marine Safety to serve as the principle advisor to the Commandant, including regarding the operation, regulation, and inspection of vessels, the reporting and investigation of marine casualties and accidents, the licensing, certification, documentation, protection and relief of merchant seamen, and suspension and revocation of licenses and certificates.

(Sec. 1105) Requires that, except for the Commandant, any individual adjudicating an appeal or granting a marine safety waiver be a qualified specialist with the necessary training, experience and qualifications in marine safety.

(Sec. 1106) Requires the Commandant to ensure that professional marine safety courses of study are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program.

(Sec. 1107) Requires

the Commandant to establish procedures that provide geographic stability to interested Coast Guard officers, employees, and members assigned to the marine safety program who have a minimum of 10 years of service in the marine safety program.

(Sec. 1108) Requires that

any Coast Guard personnel training to become a marine inspector serve a minimum of one-year apprenticeship, unless otherwise directed by the Commandant, under the guidance of a qualified inspector before conducting unsupervised inspections of vessels under specified provisions. Allows the Commandant to authorize shorter apprentice periods for certain qualifications.

(Sec. 1109) Requires the

Commandant to report to specified congressional committees on efforts to recruit and retain civilian marine inspectors and investigators and the impact of such recruitment and retention efforts on Coast Guard organizational performance.

Title XII: Additional Miscellaneous Provisions - (Sec.

1201) Directs the Secretary to prepare a mission requirement analysis for the navigable portions of the Rio Grande River, Texas, international water boundary, including identifying what would be needed to increase search and rescue, migrant interdiction, and drug interdiction operations.

(Sec. 1202) Declares that operating or

embarking in a submersible or semi-submersible vessel without nationality on an international voyage facilitates transnational crime, including drug trafficking and terrorism. Imposes criminal penalties on anyone who engages in such a voyage, or who attempts or conspires to do so. Provides for extraterritorial federal jurisdiction over the offenses.

(Sec. 1203) Declares that the provisions of this

division governing the Coast Guard's marine safety mission do not impair the legal authority of the Coast Guard to carry out its homeland security missions.

Division B: Alien Smuggling and Terrorism Prevention Act of 2008 - Alien Smuggling and Terrorism Prevention Act of 2008 - (Sec. 103) Directs the Department of Homeland Security (DHS) to check against all available terrorist watchlists those alien smugglers and smuggled individuals who are interdicted at U.S. land, air, and sea borders.

(Sec. 104)

Amends the Immigration and Nationality Act to revise alien (and terrorist) smuggling offense and related penalty provisions.

Specifies

the following criminal penalties for individuals convicted of smuggling illegal aliens into the United States (applicable to each alien for whom the offense applies): (1) fine and/or up to five years incarceration for smuggling; (2) fine and/or up to one year incarceration for transit of the defendant's spouse, child, sibling, parent, grandparent, or niece or nephew; (3) fine and/or up to 10 years incarceration for recruiting to enter, or harboring or transporting in the United States for profit, commercial advantage, or private financial gain; (4) fine and/or incarceration for 3 to 10 years for a first or second offense of knowingly bringing an illegal alien into the United States for profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual will commit a federal or state offense punishable by more than one year's incarceration, and 5 to 15 years incarceration for any subsequent violation; (5) fine and/or up to 20 years incarceration if the offense results in serious bodily injury or jeopardizes a person's life; (6) fine and/or up to 30 years incarceration if the defendant knew the individual was a terrorist or intended to engage in terrorist activity; and (7) fine and/or any term of years or life if the offense involves kidnaping or attempt to kidnap, the conduct required for aggravated sexual abuse, or an attempt to kill.

Provides extraterritorial jurisdiction over such offenses.

Limits a defense of necessity for knowingly bringing an illegal alien into the United States from the high seas.

Exempts

from certain of such violations (transporting or harboring in the United States) a bona fide nonprofit, religious organization in the United States (or its agents or officers) that encourages, invites, or

enables an alien who is present in the United States to serve as a volunteer minister or missionary for such organization in the United States, provided the minister or missionary has been a member of the denomination for at least one year.

(Sec. 105) Amends federal criminal law to specify the following maritime penalties (in addition to the current fine/five-year incarceration): (1) fine and/or up to 10 years incarceration for offenses committed in the course of smuggling, trafficking, shipping, stolen property, drug, and other offenses; (2) fine and/or up to 15 years incarceration for offenses resulting in serious bodily injury or transportation under inhumane conditions; or (3) fine and/or any term of years or life if the offense results in death or involves kidnaping or attempt to kidnap, the conduct required for aggravated sexual abuse or an attempt to commit such abuse, or an attempt to kill.

Limits a defense of necessity with respect to such maritime enforcement.

Defines

"transportation under inhumane conditions" as the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.

(Sec. 106) Directs the United States Sentencing Commission to review and amend as appropriate sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

[Click here to view the full text of the legislation.](#)